

Quarterly News & Information About Kentucky's Family Courts

June 2000

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Developing Court-Connected Parent Divorce Education Programs Guidelines For Communities Part II of IV

Mary Lou Cambron, MSSW Pamela A. Yankelov, Ph.D. Joe H. Brown, Ph.D.

This article is the second in a four part series answering a myriad of questions that program providers and communities might consider when developing a divorce education program for parents. In this issue we will discuss program support, personnel matters, facilitators and money matters when developing divorce education programs.

IV. Program Support

Have the judges made a commitment to the program?

Research shows that when a family is experiencing a divorce, parents are experiencing much conflict and may not respond to the children as needed (Wallerstein, 1984). Programs are more successful when the local courts agree to lend support by referring cases to a divorce education program. Paramount to the success of a divorce education program is a court mandating program participation (Braver et al, 1997). If the courts are agreeable to mandating attendance in the program, the program will be serving more clients who truly have a need and not just those who are capable of locating services on their own. Courts are more likely to be agreeable to mandate if they have been a participating partner in the vision and design of the program from the start.

Are there community leaders who will support a program?

It is imperative that the program have support not just from judges, but also from the local bar association. The bar association is a powerful entity and can be a program's greatest ally. It is important to meet with the local bar association

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to provide information and to answer questions during the design phase. When creating a new program, many problems arise due to lack of communication. Divorce attorneys are rightly protective of their clients, and many family law attorneys will concede that clients are dealing with many emotional problems as well as problems arising with their children as a result of the divorce. Once attorneys realize that a divorce education program does not offer legal advice, nor is it counseling, they tend to be more supportive. The program must be presented to the bar association as a benefit to clients and not as a way to undermine the attorney's role in the divorce proceedings. Keep bar associations on board by presenting members with the program curriculum. Also explain the process by which clients are ordered into the program and try to keep the cost to the clients to a minimum.

It is also important to enlist the support of community leaders, social workers, therapists, clergy and local elected officials. This group can provide the much-needed support to get the program "off the ground," and some of the group members may even help provide resources such as facilitators or facilities. The greater the support group, the greater the likelihood that the program will be well implemented.

Do you have the cooperation of the clerk's office?

If the court is willing to require families to attend an education program, then a process for referring families to the program must be developed. The best place to generate referrals is at the clerk's office at the time a divorce is filed. The assistance of the circuit court clerk should be requested to facilitate this referral. Although the amount of work per case is not overwhelming, there may be a significant number, which adds to the amount of time clerks deal with divorce cases. To make a new process successful, the cooperation of all parties, including the circuit clerk's office is essential.

Do you have the cooperation of agencies that will serve the orders for the program?

Both clients must be properly served with a copy of the petition of dissolution before a court can mandate their attendance into a program. The best time to order a client into the program is at the same time they are being served with a copy of the petition for dissolution. Respondents can be served by a variety of different ways, i.e. sheriffs, bailiffs, etc. There may be a cost associated with this service. To avoid clients accruing more costs, approach agencies responsible for serving the petition. Again, the most important issue is sharing information as well as assisting the agencies in creating an avenue to do what we are asking without adding excessively to their duties.

V. Personnel Matters

Who will manage the program?

If the court mandates the program, then the court should manage it. This gives the program more credibility. Information about the program should be discussed with the local bar association as well as other collaborating agencies. The *Families In Transition* program is an example of a unique collaboration between the court and a university. In some cases, universities or community agencies may manage the program in collaboration with the court.

Who will serve as facilitators?

Clinically trained professionals such as social workers, family therapists, or psychologists have the necessary background and training to serve as facilitators. In some cases, communities may utilize Bachelor level personnel who have excellent experience; however, all facilitators should have specific training to the curriculum to be used and should have a clear understanding of workshop objectives, goals and materials. While all programs should have qualified facilitators, the specific training requirements or qualifications for facilitators is a local matter to be determined by the court. If an established curriculum is chosen, then contact the program about training.

Do you have the necessary funds to begin the program?

There are many initial costs such as equipment, personnel, salary, and office space involved in developing a program. Seed money is needed to establish the program prior to receiving funds from clients. When determining the cost to the clients, one must keep in mind that many of these clients are indigent and can pay only a nominal fee.(\$1.00-\$5.00). Providing the program on a sliding scale will help to insure that the program is affordable to all participants.

How will the fees be collected?

A process will need to be implemented to collect fees and to redistribute those fees to cover expenses. Some courts contract with outside agencies, like universities, while others administer the financial issues locally by utilizing court personnel.

Will clients be held in contempt to court if they fail to pay for the program?

Fees should be collected at the beginning of the first session. If fees are not paid, the certificate of compliance could be withheld pending payment. This is another issue that may be addressed in the local rule or left to the discretion of the judge.

Do you have the necessary funds to continue the program?

There are always ongoing costs for any program. To make the program financially feasible, a fee increase may be necessary. If a sufficient number of clients are referred to the program and the fee is reasonable, the program will be financially self-sustaining.

Look for part III in our next issue when we will discuss program participants and participation, and any special needs that the program may encounter.

Correspondence concerning this article should be addressed to Mary Lou Cambron, Jefferson Family Court, 700 West Jefferson Street, Louisville, Kentucky 40202-4730 or Pamela Yankeelov, Kent School of Social Work, University of Louisville, Kentucky, 40292.

FAMILY COURT SITE UPDATES

FRANKLIN . . .

Jeff Smith
Court Administrator

- * Truancy Court has been implemented at the middle school level and truancy mediation at all local high schools.
- * Our office has successfully taken on all responsibilities of emergency protective orders from the clerks office. (All emergency protective orders are done within our office.) In doing so, we have networked with the community to provide follow-up services for the families.
- * Our office has also began using the Economic Litigation Docket (ELD), this began in January of 2000. The ELD is a docket management tool used to encourage expeditious movement of domestic relations cases to an agreeable conclusion.
- * The date for moving into our new facility is May 30th. Please note that our address will change to 321 West Main St., Frankfort, Ky. 40601

LINCOLN/ ROCKCASTLE/ PULASKI . . .

Lisa Rogers Court Administrator

- * Families in Transition classes are now being held in all three counties and we have had positive feedback from participants.
- * We are currently working closely with our school systems on our truancy diversion program.
- * We recently hosted a training for Guardians ad Litem, and Dependency, Neglect, and Abuse cases. Duane Osborne presented both trainings, and Crystal Collins was co-presenter at our GAL training. We had a good turn out and our presenters did a great job.

WARREN . . .

Maggie Pearson Court Administrator

- * The President's Club of Bowling Green has graciously made donations of books, videos, games, art supplies and a CD/Tape player to the Children's Waiting Room. Barnes & Noble Booksellers will conduct a book drive beginning the month of April through Mother's Day and donate a book to the Children's Waiting Room for each book purchased at their store. (The books may be purchased at a 10% discount). A formal Ribbon Cutting Ceremony for the grand opening of the Children's Waiting Room will take place in the near future.
- * Warren Family Court has been awarded a \$900.00 mini-grant from the Juvenile Delinquency Prevention Council for the printing of the domestic violence and juvenile treatment orders. The presentation was made March 21, 2000 to Judge Margaret Huddleston and Family Court Support Worker, Teresa Christmas.
- * Warren Family Court conducted a training session for social workers on April 11, 2000. The training session was a step by step program covering preliminary, adjudication, disposition, review, permanency planning, termination of parental rights, and adoption hearings. The session also included how to be prepared for court and covered child support issues. The training concluded with a "mock trial".

WE NEED YOU!!!!

Submit your articles by July 15th. Our newsletter is only as good as **you** make it.

AOC/State Justice Institute Grant Update

As you may be aware, the Department of Family Courts has been awarded a State Justice Institute grant for the purpose of publishing a document entitled a "Comprehensive Handbook for Administrators of Family Courts in Rural Areas." The project is being undertaken as an effort to improve the efficiency and effectiveness of the family court structure.

In association with the SJI award, the Administrative Office of the Courts is pleased to welcome Ken Mattingly as the project's grant coordinator. In this capacity, Ken will be involved in research, assisting a professional consultant, gather and collate data, coordinating an advisory board plus facilitating a national conference for family court officials. From these efforts a handbook will be produced.

This assignment represents Ken's second term of service with the Administrative Office of the Courts. Previously, he served with Juvenile Services as a court-designated worker. Ken was instrumental in initiating a juvenile financial restitution program in Nelson County and assisted in establishing Kentucky's first Teen Court in northern Kentucky.

Presently Ken is a Ph.D. student at the University of Louisville majoring in urban and public affairs with an emphasis on organizational administration. Ken enjoys family, friends, working out, Heine Brothers coffee, and University of Kentucky (this is not a typo) basketball and football!

Jefferson Family Court Adoption Wednesday Project

On Wednesday May 10, 2000, Jefferson Family Court finalized the adoptions of 22 severely abused and neglected children in a special Adoption Wednesday ceremony and reception. That number is as many in one day as are typically adopted in an entire month in family court.

The effort was the second Adoption Wednesday held by family court and the Kentucky Cabinet for Families and Children in the past nine months. On September 22, 1999, the court's initial Adoption Wednesday resulted in 46 adoptions in a single afternoon.

Special thanks to **The Kroger Company** and **Toys 'R Us** for donating balloon bouquets, corsages for all new moms and dads, and a Disney beanie toy for the adoptive children and their siblings.

For information on conducting an Adoption Wednesday in your court, please contact Lisa Sutton, Jefferson Family Court, 502/595-3498.



UPCOMING FAMILY COURT DATES TO REMEMBER

Dedication of Warren County Justice Center	May1 st
Guardians ad Litem Seminar - Frankfort	June 19 th
Family Service Worker Training - Frankfort	June 20 th
Deadline for September newsletter submissions	July 15 th
Guardian ad Litem - Boone/Gallatin	July 17 th
Family Service Worker Training Boone/Gallatin	July 18th
Circuit Judges College	Oct. 16 th - 19 th

Prevent Child Abuse Kentucky will be holding its annual Kids Are Worth It Conference on September 13th - 15th. Judge James R. Milliken from San Diego, California will be conducting a three hour preconference institute on September 13th on Family Drug Courts. A post conference meeting is being planned for Judge Milliken and family court staff interested in further discussion on family drug court.

TAX ASPECTS OF DIVORCE

Joni Brown, Staff Attorney Jefferson Family Court

As part of a series of seminars presented to our local attorneys, the Jefferson Family Court hosted a presentation conducted by members of the accounting firm, Crowe Chizek & Co. The seminar focused on a few of the commonly seen tax consequences resulting from the dissolution of a marriage. The first portion of the program explored some issues which are commonly overlooked when awarding maintenance and/or child support. The basic rules concerning maintenance and child support are that maintenance is taxable to the receiving spouse and deductible by the paying spouse. (IRC 71). Child support is not taxable or deductible. (IRC 215). As a result, they suggested that clients in the higher tax brackets may consider structuring child support payments as maintenance in order to maximize benefits available to them.

The presenters also spoke regarding divorce related transfers, and stated that they are, in general, nontaxable events. (IRC 1041). Of course, there are certain rules which regulate such transfers, such as the fact that they must be completed within one (1) year after the date of the cessation of the marriage, as well as consideration of all relevant facts and circumstances surrounding the transfer. The two exceptions to the rule are stock option transfers, and transfers made to satisfy a property settlement agreement. Tax consequences are experienced with each of these types of transfers. However, with most divorce related transfers, if all factors are satisfied, and assuming the parties can cooperate and forget for a moment the bitterness that generally accompanies divorce, they just may be able to save themselves significant amounts of money by working together.

Finally, the presenters touched on a few other frequently asked tax questions. First, they addressed the significant changes resulting from the 1998 IRS Restructuring and Reform Act which gave significant new rights and relief to innocent spouses making it easier for them to limit tax liabilities from erroneous tax filings by their former spouse. The new innocent spouse relief requires an understatement of tax on a joint return due to erroneous items by the former spouse, no knowledge/reason to know of understatement by the innocent spouse, and the filing of the requested relief within two years of the beginning of IRS collection activity.

In addition to the innocent spouse relief, two other types of related relief are available. Separation of liability and equitable relief are two other options available for individuals who believe they are wrongly being held responsible for the actions of their spouse.

They recommended looking closely and considering all facts and circumstances surrounding each spouse in order to determine where the greatest gain would be realized. They cautioned that the exemption phases out at certain income levels, and is completely lost at \$157,950.00. Likewise, the child tax credit is also phased out, and is completely lost at \$85,000.00.

With regard to filing status, several practioners were surprised to hear that an individual may not file married but separate <u>and</u> claim head of household status. Many indicated that their clients insist on doing so, and most have filed in such a way before they ever consult an attorney. This seminar, like all others hosted by family court, was videotaped and is available for review. If you are interested in this seminar, or any past presentations, feel free to contact the family court staff for assistance.

A FAMILY COURT SELF TEST

Judges and staff,



DO YOU KNOW....

.....what kinship care programs are available through the Department of Community Based Services? (for that matter, what is kinship care?)

....where are all the family court projects in the Commonwealth?

....what mental health services are provided in your community? Who is your liaison for accessing those services?

....what is concurrent planning? Why do you need to know?

....what do the following acronyms stand for: VINE, LINK, NCJFCJ, CBS, CJ, EPO, AOC, ASFA, FCRB, JEL, CASA, FIT?

....if you can order a child on the status docket into medical care, pre-adjudication?

....whether or not adult abuse must be reported?

....when you can deviate from the Child Support Guidelines?

....what case supported the Jefferson Family Court Pilot project as constitutional? What statute created the subsequent family court projects?

....if you can file an adoption and termination in the same action?

Answers in the next issue - and more questions!!!

TRUANCY COURT DIVERSION PROJECTS

Joni Brown, Staff Attorney Jefferson Family Court

On February 23rd and 24th, Jefferson County hosted several visitors from St. Louis City and Kansas City. The purpose of their site visit was to observe, and study, the Jefferson County Truancy Diversion Project as they are looking to implement similar programs in their communities modeled on our existing project. The list of visitors include members of the judiciary, school representatives, aldermen, law enforcement officers and prosecutors. Judge Thomas Frawley and Commissioner Anne Marie Clarke will be conducting the program in St. Louis City and Judge John Payne will be overseeing it in Kansas City.

Jefferson County Public School Court Liaison Linda Wilhelms coordinated an intense, information-packed visit for our guests. During their two day stay, the contingency observed truancy court at Western and Meyzeek Middle Schools, and reviewed statistical data concerning the project and its participants. In addition, the visitors were able to meet with their respective counterparts here in Jefferson County. These informal "breakout sessions" allowed members of different disciplines to meet with each other and discuss their roles and procedures within the program. Feedback from the participants indicated that the interaction with the individual professionals, as well as observing the program in action as a whole, made the experience much more informative and rewarding.

This visit comes on the heels of the award of a grant from the Scripps Howard Foundation which was applied for by Jeff Kuhn, of the ABA. The program is a result of a partnership between Scripps Howard and local bar associations, and will focus on developing and implementing literacy programs as part of the family court in selected communities. The model for the program will be based upon the Jefferson County Truancy Diversion Project. Four sites have been chosen nationally to receive support services to develop the program based on the Jefferson County model. The sites include Cincinnati, Ohio; Baltimore, Maryland; and Phoenix, Arizona with the fourth site to be determined. Jefferson County Family Court's Judge Joan Byer, one of the original creators of the truancy program in Jefferson County, will be traveling with Mr. Kuhn to each of these sites to assist in studying the philosophy, vision, and desired goals of the project, and implement the program. Like the Truancy Court Diversion Project, the proposed literacy program component of the aforementioned family courts will be based upon the notion that literacy is a family problem, and by bringing together the family, and putting them in touch with needed services, long-lasting and profound changes may be obtained both in children and adults.

The Jefferson County Truancy Diversion Project will also be hosting another set of visitors in the month of April. On April 20, Judge Debra Lambert from Lincoln/Rockcastle and Pulaski counties and Judge Reed Rhorer from Frankfort will be coming to Louisville to observe truancy court with the hope of implementing similar programs in their respective jurisdictions. Interest in the program has grown since its inception, as evidenced by adaptations of the program currently being in place in Franklin, Fayette, McCracken and Warren Counties. Judicial attention to identifying alternative methods to deal with truancy has become a popular pursuit statewide. Research shows that this alternative to formal court action has resulted in an overall increase of attendance, decrease of school suspensions, and an increase of grade point averages.

For more information, contact Judge Joan Byer, Jefferson Family Court, 700 W. Jefferson St. STE. 220, Louisville, KY 40202-4730



JEFFERSON FAMILY COURT RECEIVES ORGANIZATION OF THE YEAR AWARD



Exploited Children's Help Organization (ECHO) is a non profit volunteer organization committed to reducing the incidence and trauma of child victimization and exploitation. ECHO is dedicated to protecting the children of Kentucky by addressing the needs of sexually abused children and their families.

The Echo Organization of the Year Award is given to a company, association or organization that has provided support and displayed extraordinary effort concerning issues involving victims of child exploitation.

The 2000 ECHO Organization of the Year Award was presented to Jefferson Family Court for their efforts toward preserving family unity and protecting the rights and welfare of children in the community. Family Court Judge Patricia Walker FitzGerald accepted the award on behalf of Jefferson Family Court.

In 1998, Jefferson Family Court issued 4,537 emergency protective orders and processed 2,537 dependency/neglect and abuse cases, many of which dealt with issues of sexual and physical abuse. Without the dedication of the Family Court personnel, the children involved in these cases would not have been protected.

Congratulations Jefferson Family Court! Keep up the good work!

JEFFERSON FAMILY COURT ELECTS NEW CHIEF JUDGE

In an election held March 7, 2000, the Jefferson Family Court judges elected Judge Patricia Walker FitzGerald as Chief Family Court Judge.

This term became effective April 3, 2000, and will last two years. She replaces Judge Richard J. FitzGerald. Judge Walker FitzGerald was appointed by Governor Patton and has been a Family Court Judge since July of 1995.

Judge Walker FitzGerald was born in Fort Knox, Kentucky. She received her B.A. from the University of Kentucky and her Juris Doctor from the University of Louisville School of Law in 1978. She served as a staff attorney with the State Department of Justice, Protection and Advocacy Division until entering private practice in 1981.

Judge Walker FitzGerald is a member of the Louisville and Kentucky Bar Associations and was past president of the Louisville Legal Aid Society. Judge Walker FitzGerald and her husband, Thomas FitzGerald, have three sons.

Letter from the Coordinator:

Dear Family Court Judges and Staff:

After a busy spring following the legislative process I thought I'd share a quick update of how the Department of Family Courts at AOC is spending our time. It is our goal to support your family court sites and to educate and assist other counties in developing those portions of family court which may be desirable and beneficial to their work. As family courts grow in experience and expertise, it is my hope these ten family court projects continue to inspire their communities and others to convene so that the professionals, volunteers, agencies and politicians can continue to join together on behalf of children and families.

At this time, the Department of Family Courts has accepted the responsibility of:

- providing cross-training for guardians ad litems, family service workers at each site,
- supporting the development of divorce education programs statewide, including, but not limited to the Families in Transition program,
- developing a protocol and curriculum for training children's waiting room volunteers,
- following legal trends to assess impact on the court system,
- assisting in the development of family court uniform forms, orders, and publications,
- trouble-shooting site specific concerns, including those mundane tasks of facilities, equipment, supply procurement,
- working with the Department of Education on training issues, and
- with the award of the State Justice Institute grant, beginning the quantitative and qualitative analysis of the development of the family court sites, and working to serve you and the entire Court of Justice.

We are so excited at the progress of the family court projects, and despite the disappointment of not having a constitutional amendment on the ballot in November, hope to continue our positive momentum in building systems changes. As always, the Department is working to meet your needs and we both welcome and appreciate your comments.

Here's a quick look at the legislation passed this year. The Office of General Counsel, at AOC, will be distributing a legislative summary to all judges and circuit clerks, which will alert the reader to legislative changes which impact their work. The text of all bills is available on the Legislative Research Commission's Website at http://www.lrc.state.ky.us/record/00rs/record.htm. This session there were relatively few bills which passed which impact family court judges and clerks, exceptions include several child support changes, and several changes to adoption and termination law to bring it into compliance with federal law. The following reflect a few highlights you should be aware of:

HB 165 - Kinship Care - Amends 605.120 and 610.010 pertaining to kinship care for children. Allows cabinet to establish a program for kinship care to provide a more permanent placement with a qualified relative for a child who would otherwise be place in foster care due to abuse, neglect or the death of both parents. Amends KRS 610.010 (6) to authorize district court to enter temporary custody order if child is eligible for kinship care.

HB 166 - Child Support - employers must report information about all employees who are newly hired, rehired, or returning to work (amends KRS 405.435) Employees earning less than \$300 and those under 18 must be reported.

- **HB 168 Child Support** Amends 405.467(2). All support orders are subject to orders of withholding. Amends 600.020 to expand definition of "abused or neglected child". Defines "aggravated circumstances" to require one or more of five conditions. Amends 610.070(7) regarding district courts jurisdiction to make permanent awards of custody. Adds/deletes items court must address during a hearing. New section of KRS 610 reasonable efforts not required in some instances. *Read this in its entirety there are numerous provisions not reflected in this brief summary.*
- **HB 204 Child Protection -** Amends KRS 620.040 and 620.050. When a report of abuse or neglect is received, the cabinet is to immediately make an initial determination as to risk of harm and immediate safety of the child. Based upon the level of risk the cabinet is to investigate or accept the report for an assessment of family needs, and can refer to community-based services.
- **HB 296 Juvenile Justice** Amends KRS 600.020 to define beyond control of school, beyond control of parents and detention. Defines "habitual truant", "valid court order" and requires full due process rights. Defines district court jurisdiction, requires a judge to cause an investigation of certain cases. Allows extension of 10 hours for holding a child under 610.220. Creates a new section of KRS 630 which limits the use of the charge of escape. **Read this in its entirety numerous provisions.**
- **HB 335 Visitation Rights -** New section of KRS 403. When a parent is convicted of murder or first-degree manslaughter of the other parent, a court shall not grant the convicted parent visitation rights with the child unless a hearing determines visitation within the best interest of the child.
- **HB 430 Court of Justice -** Christian and Floyd family court judges added (originally only appeared in 1998 Judicial Branch Budget Memo.

HB 577 - Judicial Branch Budget

- **HB 777 Candidates for Office -** Amends KRS 118.125, 118.315 and 118A.060. Candidate's oath must contain a notification and declaration saying he/she meets all the qualifications for the office being sought
- **SB 52 Parents Abandoning a Child** Creates new sections of KRS Chapters 391 and 411. A [parent who has willfully abandoned the care and maintenance of his/her child has not right to intestate succession.

SB 107 - Venue

- **SB 174 -Uniform Child Support Orders -** Creates a new section of KRS 205 requiring the use of AOC forms for all forms, child support orders, wage withholding orders, or orders amending an existing child support order.
- **SB 218 -Child Support -** Creates new sections in KRS 205 and amends several existing statutes in the chapter. Changes the way healthcare deduction is allowed. *Read this in its entirety numerous provisions.*

SB 256 - Juvenile Justice

Hope you have an enjoyable transition from spring into summer!

Carla

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